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09/973,440	10/09/2001	Rajan Keshav Panandiker	8296	5975

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EXAMINER

PIERCE, JEREMY R

ART UNIT PAPER NUMBER

1771

DATE MAILED: 02/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/973,440

Applicant(s)

PANANDIKER ET AL. 

Examiner

Jeremy R. Pierce

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 17 November 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13, 15 and 18-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-13, 15 and 18-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Response to Amendment*

1. Applicant's amendment filed November 17, 2003 has been entered. Claims 14, 16, and 17 have been cancelled. Claims 1-13, 15, and 18-20 have been amended. New claims 21-32 have been added.

### *Claim Rejections - 35 USC § 112*

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recites "the article has a stiffness adapted to prevent folding of the article during a washing machine cycle." How is the article adapted to prevent folding? No clear structure is provided to the fabric by saying it is "adapted to" prevent folding.

### *Claim Rejections - 35 USC § 102*

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3-8, 12, 13, 15, 18, 21, and 27-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Cambre (U.S. Patent No. 4,199,464).

Cambre discloses a laundry substrate article that provides various benefits including dye transfer inhibition (column 1, lines 56-57). The detergent composition inhibits the transfer of certain dyes in the washing solution (column 12, lines 40-43). The article can be multi-layer paper structures (column 5, lines 50-52). With regard to claims 3 and 4, the multi-ply paper may be embossed (column 5, line 52), which would create pressure bonds. With regard to claims 5, 6, and 8, Cambre discloses a two-layer embodiment where the first and second layers weigh 77.5 gsm (column 18, lines 20-22). With regard to claims 5, 10, and 27, concerning the additional layer, Cambre discloses that the substrate may be made according to U.S. Patent No. 3,414,459 to Wells (column 4, line 45), which is incorporated into Cambre by reference. Well discloses embodiments of at least two paper plies to be between 7 to 30 pounds per 3000 square feet, which equals about 11 to 49 gsm (column 4, lines 32-43). Wells also specifically discloses a three-layer embodiment (column 5, lines 14-16). With regard to claim 12, Cambre discloses using nonwoven cloths (column 4, lines 3-46). With regard to claims 15 and 28, Cambre discloses the cloths may be air-laid (column 4, lines 65-68). With regard to claims 18, 21, and 29, Cambre discloses the substrate to have a melting point higher than at least 300 degrees Fahrenheit so that it does not melt in a drying machine (column 4, lines 20-24).

6. Claim 32 is rejected under 35 U.S.C. 102(b) as being anticipated by Wattiez et al. (U.S. Patent No. 4,494,264).

Art Unit: 1771

Wattiez et al. disclose an article formed from cotton that has been grafted to absorb dye (column 2, lines 36-46). The article may be formed from two layers \*column 4, lines 36-37).

***Claim Rejections - 35 USC § 102/103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 10, 11, 19, 20, 22-26, 30, and 31 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Cambre.

With regard to claims 2, 20, 25, 26, and 31, although Cambre does not explicitly teach the limitations of stiffness, it is reasonable to presume that said limitations are inherent to the invention. Support for said presumption is found in the use of similar materials (i.e. multi-layer substrate) and in the similar production steps (i.e. air-laying the two layers with similar basis weights) used to produce the laundry substrate. The burden is upon the Applicant to prove otherwise. *In re Fitzgerald*, 205 USPQ 594. Further support for inherency is present because Cambre incorporates by reference similar patents that the Applicant incorporates into the present invention. Applicant states, "A specific example of a type of paper article material preferred herein is a two-ply paper having a basis weight of about 50 pounds per 2,880 sq. ft. made from, for example, a mixture of ground wood and kraft bleached wood pulps. Another example is

Art Unit: 1771

the absorbent, multi-ply toweling paper which is disclosed in U.S. Pat. No. 3,414,459, Wells, issued Dec. 3, 1968" (page 10, lines 26-30). Similarly, the Cambre reference has the exact same paragraph describing a preferred substrate for that invention (column 4, lines 38-46). Use of the same materials by Cambre as Applicant supports the presumption for inherency of the resulting properties. In the alternative, the claimed stiffness and permeability would obviously have been provided by the process disclosed by Cambre because Cambre specifically states that fiber density and thickness can be adjusted so long as the article is able to maintain its structural integrity during a wash (column 4, lines 14-19). Increasing the stiffness would be optimization of a result effective variable, with those variables being fiber density and thickness. It would have been obvious to one having ordinary skill in the art to create an article with a Taber stiffness rating of from 7 TSU to 200 TSU and permeability greater than or equal to 0.06 ml/sec/cm<sup>2</sup>, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. *In re Boesch*, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Note *In re Best*, 195 USPQ 433, footnote 4 (CCPA 1977) as to the providing of this rejection under 35 USC 103 in addition to the rejection made above under 35 USC 102. With regard to claims 10 and 11, it is reasonable to presume that the first layer has opacity of less than 70%, or preferably 50%. Support for said presumption is also based on the use of similar materials and similar processes used to create the laundry substrate. The burden is upon the Applicant to prove otherwise. Alternatively, it would have been obvious to a person having ordinary skill in the art to make the first layer less opaque, by adjusting the result effective variables of thickness

Art Unit: 1771

and fiber density as discussed above, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claims 19, 23, 24, and 30, it is also reasonable to presume that the claimed permeability properties are also inherent to Cambre. In addition to the support for similar materials and similar production processes, Cambre teach the article has permeability properties similar to those provided by various McQueary references (column 5, lines 38-46). Applicant teaches the present invention also has permeability properties similar to those found in the McQueary references (page 12, lines 5-15). The burden is upon the Applicant to prove otherwise. In the alternative, it would have been obvious to a person having ordinary skill in the art to make the water permeability greater than or equal to 0.06 ml/sec/cm<sup>2</sup>, because Cambre teaches that density and void volume are adjustable variables (column 5, lines 48-50), and it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. With regard to claim 22, Cambre discloses the substrate to have a melting point higher than at least 300 degrees Fahrenheit so that it does not melt in a drying machine (column 4, lines 20-24).

***Claim Rejections - 35 USC § 103***

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cambre.

Cambre do not disclose a specific two-layer embodiment where the second layer has a weight between 80 and 120 gsm. Cambre do disclose a two-layer embodiment where both layers weight 77.5 gsm. Cambre also disclose that the weight of the layers



can be between 50 and 90 gsm (column 5, lines 25-28), and that fiber density and thickness (two factors that effect basis weight) can be adjusted so long as the substrate maintains structural integrity (column 4, lines 14-19). It would have been obvious to one having ordinary skill in the art to make the second layer have a basis weight between 80 and 120 gsm in order to increase the strength of the second layer to maintain structural integrity, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

### ***Response to Arguments***

10. Applicant's arguments filed November 17, 2003 have been fully considered but they are not persuasive.

11. Applicant argues that Cambre do not disclose a dye absorbing compound that is fixed to one or both first and second layers. However, Applicant has no rigid definition of "fixed to" in the specification that would preclude the Cambre reference from meeting the claim. Specifically, Applicant discloses that fixing the dye absorbing compound to the layers "may be accomplished via any method, a preferred method includes liquefying the compounds and coating the first and second surfaces" (page 8, lines 27-28). Cambre discloses the surfactant material may be loaded onto the substrate "in any of the ways conventionally known in the art, such as coating or impregnation." Since the material is coated onto the substrate, then it is also considered fixed to the substrate by the Examiner. Even if detergent is to be released from the composition of Cambre, it is still affixed to the substrate beforehand.



12. Applicant's argues that one skilled in the art would appreciate that a mere reference by Cambre to structural integrity does not teach or suggest the claimed stiffness, opacity, and permeability limitations. However, the Examiner did not base the inherency rejection on Cambre's reference to structural integrity entirely. The ground for inherency is based on the use of similar materials and in similar processes. Once the Examiner shows that a reasonable basis for inherency, as set forth above, the burden shifts to the Applicant to prove otherwise. Even if not inherent, the grounds of rejection above set forth that it would also be obvious to provide such properties as the result of optimization of a result effective variable. Applicant provides no argument as to these grounds of rejection.

13. Applicant argues that contrary to the present invention, Cambre does not teach that fixing the dye-absorbing compound provides an aesthetic benefit to the user where the absorbed dyes can be observed. However, as set forth above, Cambre meets the claimed limitations because the material is, in fact, fixed to the substrate by coating. Additionally, any aesthetic benefit where the absorbed dyes can be observed is not claimed.

### ***Conclusion***

14. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1771

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

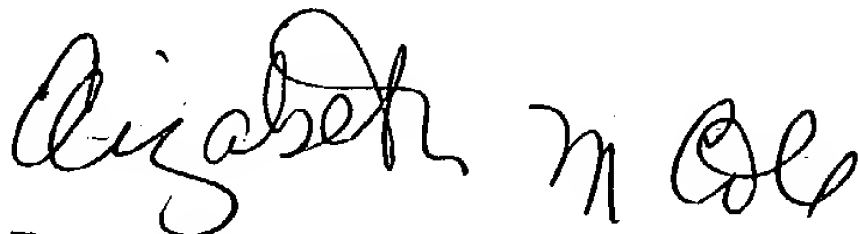
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (571) 272-1479. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-0994.

JRP

JRP

  
ELIZABETH M. COLE  
PRIMARY EXAMINER